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Compulsory Flag Salute In Schools

A survey of the statutes and an examination of their constitutionality

by William G. Fennell
of the New York Bar

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Published by
COMMITTEE ON ACADEMIC FREEDOM
AMERICAN CIVIL LIBERTIES UNION
31 Union Square, West
New York City

January, 1938
2nd Edition

X-JC599
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Supreme Court of the United States

#102

October Term, 1938

No. 651

FRANK HAGUE, individually and as Mayor of Jersey City, *et al.*,

Petitioners,

against

COMMITTEE FOR INDUSTRIAL ORGANIZATION, AMERICAN CIVIL LIBERTIES UNION, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

• Decision •

June 15, 1939

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New York City

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Why We Defend Free Speech for Nazis, Fascists and Communists

An answer to critics who would deny liberty to those they characterize as enemies of democracy

By the Board of Directors of the
American Civil Liberties Union

AMERICAN CIVIL LIBERTIES UNION
31 Union Square W.
New York City

181

April, 1939

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Civil Liberties in American Colonies

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(Acme)

THE AMERICAN CIVIL LIBERTIES UNION
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New York City

February, 1939 *10 cents*

Civil rights – U.S. [– Insular possessions]

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Fifteen Years on Freedom's Front » » »

#106

BY
DR. CLINTON J. TAFT
Director
American Civil Liberties Union
Southern California Branch

X-JC 599

Eternal Vigilance is the Price of Liberty

The story of the struggle for civil liberties in Southern California from 1923 to 1939

Civil rights — California.

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#107

Summary of Arguments Against
Sedition, Criminal Syndicalism and Criminal Anarchy Laws

Prepared by

James Lipsig

of the New York Bar

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31 Union Square West
New York City

181

April, 1939

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#108

Civil Liberty in American Cities

A survey based on 332 American cities of over 10,000 population

This summary of a survey of civil liberty in American cities is based upon replies from questionnaires to officials and representatives of the American Civil Liberties Union. Such sources of information obviously give only approximate results. The Civil Liberties Union presents the information in the belief that it will call attention to efforts needed for improving conditions in many communities. It is planned to make such a check-up periodically.

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March, 1939

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The Individual and the State

The Problem as Presented by the
Sentencing of

Roger N. Baldwin

as a Conscientious Objector
in the Federal District Court
at New York, October 30, 1918
before Judge Julius M. Mayer

November 1918.

Reprinted - November, 1940

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CRISIS

In The Civil Liberties Union

A STATEMENT, INCLUDING THE BASIC DOCUMENTS CONCERNED, GIVING THE MINORITY POSITION IN THE CURRENT CONTROVERSY IN THE A.C.L.U.

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CONGRESS OF THE United States

Begun and held at the City of New York on
Wednesday the fourth of March, one thousand seven hundred and eighty nine.

THE BILL OF RIGHTS in Danger!

By ROBERT W. DUNN

5c.

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Pamphlet Section
#112

The American Civil Liberties Union, Inc.

What Are Its Principles?

★

How Does It Work?

★

Where Does It Get Its Money?

★

Who Controls Its Policies?

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The Story

of the

Bertrand Russell Case

THE enlightening record of the obstruction by courts and officials of the appointment of Bertrand Russell to a professorship at the College of the City of New York.

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A report
on American democratic
liberties in war-time
June, 1942

THE BILL OF RIGHTS IN WAR

AMERICAN CIVIL LIBERTIES UNION
170 FIFTH AVENUE NEW YORK CITY

#115

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MILITARY POWER
and
CIVIL RIGHTS

A statement of policy on
war-time issues

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170 Fifth Avenue New York City
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WAR and the BILL OF RIGHTS

Wartime laws and regulations affecting freedom of speech, press and communication. With a directory of federal agencies concerned.

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January, 1942

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The Bill of Rights *in* War-Time

JC599
.U5A42

The Supreme Court

The President

The Attorney General

Mr. Willkie

American Civil Liberties Union
170 Fifth Avenue
New York, N. Y.

490

January, 1942

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War-time Program for the Bill of Rights - 1943

Here are our chief activities. Lend your support. Read, then tear off and return the form on the back. Sign up to get on the special mailing lists so that you may know when and how to help.

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170 Fifth Avenue . . . . . January, 1943

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Civil Liberty

A statement defining the position of the American Civil Liberties Union

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CIVIL LIBERTIES UNION
170 Fifth Avenue
New York City

March, 1943

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THE AMERICAN CIVIL LIBERTIES UNION

What are its principles?

How does it work?

Where does it get its money?

Who controls its policies?

170 FIFTH AVENUE, NEW YORK CITY

181

1-FEB 8
1944
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#121

What's Obscene?

The federal government in recent proceedings holds that it is obscene to advocate polygamy, to portray nudism for health, to give plain-spoken sex instruction for marriage, to publish pictures of "pin-up" girls.

The Post Office Department censors determine most of these standards of morality. Their power should be transferred to the courts, with juries to reflect public morals.

Read the facts about these recent cases, and lend your aid in changing the system.

THE CENSORS

OBSCENITY is a crime under federal and state laws when allegedly salacious matter is publicly distributed. The protection of public morals of course demands some control over the distribution of indecent literature and pictures. But the difficulty at once arises in determining what is in fact obscenity. Public morals constantly change. What is regarded as obscene in one generation may be accepted as entirely proper in the next. While there may be general agreement as to certain extreme forms of indecency, there is a large borderline area where judgments differ.

Censors notoriously do not catch up with changing standards. They tend to base their concepts on the most puritanical notions. Therefore the only satisfactory method of determining current standards of morality is a proceeding in the courts with the right of trial by jury, for average jurors reflect average public morals.

That system has been in effect with no complaints for over ten years in relation to literature and pictures imported from abroad which customs officials may challenge and seize, but which they are obliged, on demand of the importer, to take to the courts. There a judge and jury determine whether the material is admissible.

The Post Office Department follows a contrary procedure. It may bar from the mails any matter which in the judgment of its lawyers is obscene. No hearings are held save when second-class mailing privileges are revoked. No court review is possible except on the narrow ground of abuse of the wide discretion given the Postmaster.

This pamphlet sets forth a few of the recent cases which have gone into

American Civil Liberties Union, 170 Fifth Avenue, New York 10, N. Y.

1944

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#122

LIBERTY on the HOME FRONT

In the Fourth Year of War

AMERICAN CIVIL LIBERTIES UNION
70 Fifth Avenue New York 10, N. Y.

July 1945

X-JC 599

1921 1946

Alexander Berkman Aid Fund

#123

25th ANNIVERSARY

Campaign for Funds for Political Refugees

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Alexander Berkman

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2422 NORTH HALSTED STREET
CHICAGO 14, ILLINOIS

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#124

THE GREAT AMERICAN SWINDLE

by

BRADFORD SMITH

Reprinted from

COMMON GROUND

Winter 1947 Issue

by the

AMERICAN CIVIL LIBERTIES UNION

170 Fifth Avenue
New York City, New York

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#125

IN THE

Supreme Court of the United States

October Term, 1947.

Nos. 50 and 79.

UNITED STATES OF AMERICA,
Appellant,

AGAINST

PARAMOUNT PICTURES, INC. *et al.*,
Appellees.

PARAMOUNT PICTURES, INC. *et al.*,
Appellants,

AGAINST

UNITED STATES OF AMERICA,
Appellee.

ON APPEALS FROM UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

Motion for Leave to File Brief as Amicus Curiae and Brief in Support Thereof.

AMERICAN CIVIL LIBERTIES UNION, *Amicus Curiae,*
HAROLD J. SHERMAN and
H. WILLIAM FITELSON,
Counsel.

GEORGE H. DESSION,
Of the Connecticut Bar,

WENDELL BERGE,
Of the District of Columbia Bar,

H. WILLIAM FITELSON,
JAMES LAWRENCE FLY,
HAROLD J. SHERMAN,
C. DICKERMAN WILLIAMS,
Of the New York Bar,
Of Counsel.

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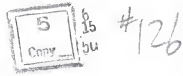

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Our UNCERTAIN LIBERTIES

U. S. LIBERTIES, 1947-48

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York 10, N. Y.
August 1948

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DEMOCRACY

in

TRADE UNIONS

A survey, with a program of action

AMERICAN CIVIL LIBERTIES UNION

170 Fifth Avenue, New York 10, N. Y.

May, 1949

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VIOLENCE IN PEEKSKILL

A REPORT OF THE VIOLATIONS OF CIVIL LIBERTIES
AT TWO PAUL ROBESON CONCERTS NEAR PEEKSKILL, N. Y.
AUGUST 27th AND SEPTEMBER 4th, 1949

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170 FIFTH AVENUE • NEW YORK 10, N. Y.

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IN THE SHADOW OF FEAR

AMERICAN LIBERTIES 1948-49

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York 10, N. Y.

29th Annual Report *August 1949*

Reprinted January 1950 25¢ postpaid

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Laws vs. Communists in Schools and Colleges

Statement of President James Bryant Conant of Harvard University before a committee of the Massachusetts legislature, Feb. 9, 1948.

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April 1949

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Progress Towards an International Bill of Rights

1949 is scheduled as the year of the most far-reaching action ever taken to establish civil liberties on a world basis.

The first Universal *Declaration* of Human Rights in history, adopted by the UN General Assembly at Paris in 1948,—a document with moral force alone—will be followed by work on a legally enforcible *covenant* on human rights, for adoption by nations favoring it.

A convention on *genocide*, adopted unanimously by the Assembly and signed by 20 nations, will come before the U.S. Senate for ratification.

Three conventions on *freedom of international communication* by press, radio and newsreels are before the adjourned Assembly.

To make all the conventions effective for U.S. participation, favorable action by the U.S. Senate is necessary. Genocide and freedom of communication conventions will doubtless be presented to the Senate this year; and the human rights covenant next year.

It is important therefore that the facts and prospects should be widely understood. Strong opposition has already arisen to committing the U.S. to accept any international jurisdiction beyond our own government. Organized support by those favorable to international guarantees of rights is therefore necessary to assure action.

Since the substance of the conventions is entirely in keeping with our Bill of Rights and our democratic attitude toward these issues, adherence to the conventions cannot reasonably be regarded as in any way curtailing our effective national authority.

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WHAT PRICE FREEDOM?

By

ROBERT M. HUTCHINS
Chancellor, University of Chicago

Text of Address at Chicago University Convocation, June 1949

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York 10, N. Y.

October, 1949

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OF – MOTION PICTURES
PERIODICALS
RADIO
BOOKS
PLAYS

NATIONAL COUNCIL ON FREEDOM FROM CENSORSHIP
Affiliated with the
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170 FIFTH AVENUE
NEW YORK 10, N. Y.

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February, 1949

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Civil Liberty

A statement defining the position of the American Civil Liberties Union

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170 Fifth Avenue
New York 10, N. Y.

June, 1949

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WHAT DO YOU MEAN, FREE SPEECH?

Should the enemies of liberty and tolerance be allowed free speech?

Should anti-democratic propaganda be suppressed?

Where draw the line?

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York 10, N. Y.
181 *August, 1949*

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We Must Not Be Afraid of Change

By Raymond B. Fosdick, former president of the Rockefeller Foundation

---

When the last glacier retreated northward from what is now Connecticut, it left behind, as mementos of its visit, great boulders of rock strewn lavishly across the state. Several of them, larger than corncribs and many tons in weight, were deposited on my farm, and for fifteen years I have watched one of them fight a losing battle with an ash tree. The tree evidently started in a seed lodged in a tiny pocket in the top of the rock. When I first saw it, it was a sturdy sapling that had made itself a comfortable crevice for its roots. Today its irresistible growth has torn the massive rock into fragments.

This is the law of life. The future belongs not to rigid absolutes, whether they are primal rock or unyielding social arrangements, but to the thing that can grow, whether it is a tree or a democracy.

It is strange that a principle as familiar as this should today need underscoring, but we are living in years of uncertainty and fear, and fear induces a kind of spiritual astigmatism. To be sure, in our generation we have reason for our fears, and every

---

Reprinted from The New York Times Magazine, Sunday, April 3, 1949

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October, 1949

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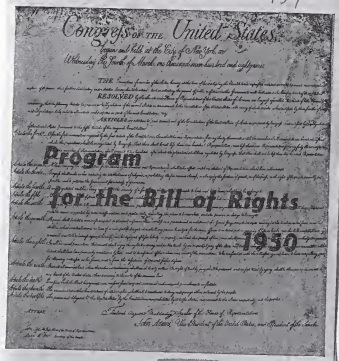

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The FREE *and the* BRAVE

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#139

Presenting the

AMERICAN CIVIL LIBERTIES UNION

What are its principles?

How does it work?

Who supports it?

Who sets its policies?

AMERICAN CIVIL LIBERTIES UNION.
170 Fifth Avenue, New York 10, N. Y.

February, 1950

Form card

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American Civil Liberties Union 30th Anniversary Conference Report

Held at the Hotel Waldorf Astoria, New York City, February 22, 1950

The American Civil Liberties Union observed its 30 anniversary February 22, 1950 with a series of meetings at its annual conference and a dinner honoring Roger N. Baldwin for his years of service to the cause of civil rights.

Appropriately, ACLU spent little time reviewing past history during its sessions at the Hotel Waldorf-Astoria in New York. Instead it turned the spotlight on current threats to civil liberties—the areas where it will work in the days to come.

Afternoon meetings considering these threats pointed up the conference theme: "The Rough Road Ahead." Members and friends of ACLU heard reports to the membership on important issues, a debate on wire tapping, and discussions on four major problems—civil rights in trade unions, civil liberties on the international front, the Government and civil rights, and Communists and the Bill of Rights.

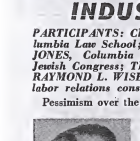
In the belief that ACLU supporters who were unable to attend would like a report of the conference, the Union is distributing this summary of the proceedings as a supplement to its monthly publication, CIVIL LIBERTIES.

GOVERNMENT AND CIVIL RIGHTS:

PANEL DISSATISFIED WITH LOYALTY PROGRAM IN INDUSTRY AND PROSPECTS FOR CIVIL RIGHTS BILLS

PARTICIPANTS: Chairman, Prof. WALTER GELLHORN, Columbia Law School; Cong. JACOB K. JAVITS; Prof. HARRY JONES, Columbia University; WILL MASLOW, American Jewish Congress; THURGOOD MARSHALL, counsel, NAACP; RAYMOND L. WISE, ACLU board member; AUSTIN FISHER, labor relations consultant; MARTIN GERBER, UAW-CIO.

Pessimism over the prospects of an early favorable Congressional action on the civil rights program marked discussions of the Government's proper role in insuring civil liberties.



Gellhorn

Chances for the civil rights program occupied only part of the period, however. Covering a related field, the panel argued whether Government extension of loyalty tests to private industry is justified. This topic was considered especially pertinent because of the alleged misuse of the loyalty program by some employers and because some loyalty hearing questions indicate that adherence to liberal beliefs in itself is used as a test of disloyalty, whether Government powers are being employed to narrow rather than to extend individual freedoms may be involved.

The most optimistic note concerning the civil rights program was struck in a statement read for Javits, who was in Washington for debate on the FEPC bill, an eviscerated version of which was passed by the House of Representatives the following day. Javits predicted that "more will be done on civil rights in the next few years in the United States than" in the period since the Civil War.

Jones agreed that civil rights bills can be delayed for some time but cannot be blocked completely. He pointed out that the real problem—so far as FEPC is concerned—is in the Senate where the filibuster is in effect. There, he said, the minority opponents very likely will prevent a vote on the bill this session.

Holy Crusade

To overcome this minority opposition, Marshall called for a "holy crusade" by liberal elements. He accused the liberal Senators and Representatives of failure to be on the floor of Congress at the proper time for roll calls, in contrast to the non-liberals. The job of getting favorable action on civil rights bills is no longer one for technicians and lobbyists, he said. "If liberals don't stand up and order Congressmen to fight these bills won't pass."

Gellhorn accused the Federal Government of lagging behind many states in the drive to eliminate segregation. Along with Javits and Jones, he emphasized that FEPC is only one part of an extensive program. As a case in point, Jones mentioned the Bardeu bill, which, he said, fails to guarantee Federal aid to education funds for Negro children in the south. Proponents of civil rights should direct attention to such measures as well as to the more publicized ones, he said.

After mentioning various civil rights issues, Javits declared that passage of the program is necessary not only to implement constitutional principles but also to maintain our world position as the chief defender of democracy.

"The great revolutionary stirrings in the world are among the colored people," he said. "Resistance to FEPC in our own country is not only resistance to the true American concept of the equality of all citizens, but is striking vitally at our capability for winning the cold war."

Maslow paid tribute to President Truman as the chief executive who has done more for civil rights than any of his predecessors, including the late President Roosevelt.

In the area of loyalty tests for industrial employes working on classified material there was less agreement among panel participants. Gerber opposed all loyalty tests for workers in industry. Wise opposed the present loyalty program but called for another, with proper safeguards, on the grounds that we need protection against spies. Fisher suggested that we try psychiatric techniques to ferret out disloyal persons.

Loyalty Tests

Gerber contended that the danger of destroying freedom of thought is more serious than the danger of sedition by workers. He cited several instances where, he said, employers used security regulations to attack unions. According to Gerber, loyalty tests in industry tend to infringe upon basic democratic rights.

Although admitting that employers often use the security problem as an anti-union weapon, Wise maintained that protection against spies is necessary. However, he proposed scrapping the current loyalty program as one conceived in hysteria and politics and suggested curbing military power on the Industrial Employment Review Board by making its membership wholly civilian, with both labor and industry represented. The IERB is the group to which employes can appeal when they are refused clearance to work with classified material.

On the other hand, Fisher favored testing the minds and records of employes for evidence of disloyalty. Terming loyalty oaths a "waste of time," Fisher called for the employment of psychiatrists and internists to show us how to choose men for key spots.

"The best security against disloyalty that a democracy can provide for itself is to establish and enforce a high standard of mental health for those to whom we entrust the nation's secrets," he added.

Industry is not now willing to spend the time and money on these psychiatric methods which Fisher claimed were virtually the only reliable means of uncovering a predisposition to disloyalty. In the meantime, while FBI methods are used, he urged that accused employes be given full opportunity to defend themselves.

SUMMARY: Two points about the civil rights program stood clear. Extension of the Bill of Rights and adequate protection of these rights are the prime responsibility of the Government. Parliamentary maneuvers aimed at indefinitely blocking civil rights bills run counter to democratic methods. Some progress has been made in a few areas, but the panel was not optimistic about prospects of getting an adequate FEPC act passed.

The implicit dangers in the principle of loyalty tests in private industry were recognized, and procedures currently in use were deplored. The question, as stated by Gellhorn, was whether we oppose all extension of security procedures to private industry or whether we consider such procedures necessary and demand only that adequate safeguards be provided for workers subject to loyalty tests. Gerber alone held that loyalty tests were more dangerous to democracy than the possibility of disloyalty among workers. Other panel members, while criticising the loyalty program setup, argued that the nation must be protected against sedition.

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#141

TWENTY QUESTIONS on CIVIL LIBERTIES

YOU believe in the "Bill of Rights" -- but exactly how much civil liberty do you think should be allowed in our democracy? This little quiz will tell you where you stand... If you agree with the statement, put a circle around Y (for "Yes"); if not, put one around N (for "No").

1. Government employees accused of disloyalty should have the right to know the sources of information against them and to cross-examine their accusers..... Y N

2. Police and other censors should be allowed to ban books and movies such as "Studs Lonigan" or "Lost Boundaries"..... Y N

3. Personal ability alone should determine an applicant's right to a job, regardless of his race, religion or national origin..... Y N

4. Labor unions should be permitted to contribute funds to political parties.... Y N

5. The right to vote should be restricted by poll taxes, white primaries and other such devices..... Y N

6. Colleges are justified in using a quota system to limit enrollment by members of certain racial and religious groups..... Y N

7. Gerald L. K. Smith and Paul Robeson should have the same right to make public speeches as other political leaders..... Y N

8. Trade unions are entitled to restrict their membership on the basis of color, religion or national origin..... Y N

9. Any private individual has the right to criticize any government or government official anywhere in the world..... Y N

10. Police officials should have the right to listen in on private phone conversations..... Y N

11. Employers should be permitted to state their views regarding labor unions to their workers..... Y N

12. Movies, plays and books should be suppressed if they present an offensive characterization of a particular racial or religious group..... Y N

13. The federal government should intervene to prosecute lynchers when states or local communities fail to act..... Y N

14. Labor's right to picket includes the right to deny access to struck plants by force of numbers..... Y N

15. Private and religious schools should receive financial support from the government..... Y N

16. The Attorney General is justified in issuing his list of "subversive" organizations without granting them prior hearings..... Y N

17. The government is justified in barring foreign visitors because of their political or other beliefs..... Y N

18. All oriental countries should have U.S. immigration quotas on the same basis as other nations..... Y N

19. Tests of government employees' loyalty should be confined to jobs where national security is involved..... Y N

20. Public school and college teachers should be required to sign a special non-Communist loyalty oath..... Y N

PLAY FAIR - DON'T CHECK YOUR SCORE UNTIL YOU ANSWER ALL TWENTY QUESTIONS

In the ACLU'S opinion, you get 5 POINTS each for answering YES to numbers 1, 3, 4, 7, 9, 11, 13, 18, 19; and 5 POINTS each for answering NO to numbers 2, 5, 6, 8, 10, 12, 14, 15, 16, 17, 20.

IF YOU SCORE 75 OR MORE.....

.....then you believe in almost no exception to the principles of civil liberty.

.....if so, you belong in spirit to the American Civil Liberties Union. Why not join in fact the one nationwide organization which fights -- every day in the year -- for the liberties you cherish? Membership blank-return envelope enclosed.

WHATEVER YOUR SCORE, SEE OVER.....

(over, please)

5 Copy 6 15 50
#142

X-JC 599
.U5A5

Special Program

on the Occasion of a

DINNER

in Honor of

ROGER N. BALDWIN

and the

30th Anniversary

of the

AMERICAN CIVIL LIBERTIES UNION

HOTEL WALDORF-ASTORIA

FEBRUARY 22nd, 1950

New York City

JC599
.U5A4
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#143

Never Since the Prosecutions of Radicals Began

has the legal defense work been so crippled for lack of funds.

¶ The I. W. W. Defense Committee, which carries the legal and relief work of 103 federal prisoners and several hundred State prosecutions, has been forced to stop even the meager $10.00 weekly allowances to prisoners' families, and to discontinue much necessary legal aid.

¶ The National Defense Committee, which handles Communist cases, can give only scattering relief to the wives and children of men held for deportation or in prison, and is unable to meet even the pressing demands of court cases.

¶ These two national defense organizations handling the great majority of free speech cases are in desperate need. There are local defense groups in equal distress. Unemployment makes impossible the continued working-class support of the defense work.

¶ The friends of free speech who helped in emergencies before will not abandon those prosecuted for their radical faith. The American Civil Liberties Union calls on their behalf for funds.

¶ $5,000 is urgently needed for immediate obligations. All money received will be placed in the hands of an Emergency Defense Committee, which will distribute it to the various defense committees for the cases and the work in most urgent need.

¶ **That Emergency Defense Committee consists of Robert Morss Lovett, chairman, Albert De Silver, treasurer, Edward T. Devine, Robert Herrick, John Haynes Holmes, Mary E. McDowell, and Harry F. Ward.**

¶ Those wishing to have their contribution used for special cases or needs should indicate it. Detailed reports of the disposition of all money received will be sent to contributors.

¶ **Checks should be sent to Albert De Silver, treasurer, at 138 West 13th Street, New York City.**

Tear out and use this blank

To ALBERT DE SILVER, Treasurer,
138 West 13th Street, New York City.

Enclosed find check for $....., my contribution to the legal defense and relief in free speech cases, to be applied by the Emergency Defense Committee. (If for special case or need, note here) .....

Name.....

Address.....

City.....